IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A.O.NO.491 OF 2005

Deepak Babulal Shah .. Appellant

vs.

Anil Shah & Ors. .. Respondents

Mr. Shriram Kulkarni for the Appellant.

CORAM : A.S.OKA, J.

DATED : 2nd May, 2005.

P.C. :

1. Heard Shri Kulkarni for the Appellants. The Appellants are the original Defendants. The learned trial Judge rejected the plaint by holding that the suit was barred by limitation. In an appeal preferred by the Original Plaintiffs, the Judgment and decree passed by the learned trial Court has been set aside and the suit has been remanded to the trial Court.

2. The Appellate Court has held that while deciding the issue of bar of limitation no opportunity was given to the parties to lead evidence. Therefore, the Appellate Court has passed the order of remand. It is obvious from the

impugned Judgment and Order that all issues including issue of limitation have been kept open. If order of remand is passed to enable the parties to lead evidence, no fault can be found with the said order. There is no merit in the Appeal from Order.

3. Appeal is dismissed with no order as to costs.

(A.S.Oka, J.)